



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Jerry Hersman
Community Advisory Group
P.O. Box 153
Libby, Montana 59923

Dear Mr. Hersman:

Thank you for your letter of February 25, 2003, to Christine Todd Whitman, Administrator of the U.S. Environmental Protection Agency (EPA) concerning the asbestos cleanup in Libby, Montana and issues related to public health emergency provisions found in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). Administrator Whitman asked that I respond to your letter.

Federal funds made available through the Department of Health and Human Services (HHS) have allowed for the updating of the local hospital facility, the operation of the Center for Asbestos Related Disease (CARD), and the Lincoln County Community Health Center. Through a grant to the school district, a data base of school children who may be at risk is being developed. We understand that the funding by HHS provided some additional resources to the people of Libby to help ensure that they get the best care available for the health impacts resulting from this site.

EPA will continue to work with our partners in the Health Resources and Services Administration (HRSA) of HHS to identify the best mechanisms available to bring the needed health care to the community of Libby, Montana. The HHS Office of the Health Resources and Services Administration in Denver, Colorado provides support for the health care facilities in the State of Montana. The HRSA office in Denver may be contacted at 303-844-7877 or 7864.

As to Public Health Emergency provisions in CERCLA, in the 23-year history of the provision, EPA has never made a determination that a public health or environmental emergency exists to invoke CERCLA's exception to the general "product" rule, CERCLA Sec. 104(a)(1)(4). However, in the part of the statute establishing ATSDR, CERCLA separately provides that ATSDR may, "in cases of public health emergencies... provide medical care and testing to individuals..."; CERCLA Sec 104 (i)(1)(D).

EPA has worked closely with the Department of Health and Human Services (HHS) and ATSDR regarding the health of Libby residents, and have consulted on several occasions regarding this particular provision of CERCLA. EPA and ATSDR agree that EPA's decision to invoke the "emergency" provision of 104(a)(1)(4) to support a removal action, would not pre-determine ATSDR's independent exercise of authority under CERCLA's separate "emergency" provisions governing ATSDR, 104(i)(1)(D). At the time the Libby Action Memorandum Amendment was signed in May 2002, ATSDR advised EPA, for reasons unrelated to any perceived nexus between these two provisions, that the substantial health screening and monitoring services being provided to the residents of Libby would not be affected by whether EPA invoked the emergency removal authority.

Thank you for inviting Administrator Whitman to the March 13, 2003, Community Advisory Group meeting. Regrettably, she was not able to attend. Nevertheless, I assure you that the Administrator and I remain fully committed to helping Region 8 achieve a timely, protective cleanup in Libby. As you know, you may continue to get in touch with Jim Christiansen, the EPA Remedial Project Manager for the work being done at Libby, at 303-312-7024.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Marianne L. Horinko".

Marianne Lamont Horinko
Assistant Administrator